

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 20

ADRIANA MORENO, A Sole
Proprietorship, d/b/a NEW AGE
COMMUNICATIONS

and

Case 20-CA-34742

INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS,
LOCAL 340, AFL-CIO

MOTION FOR DEFAULT JUDGMENT

The Acting General Counsel of the National Labor Relations Board, by the undersigned Counsel for the Acting General Counsel, files this Motion for Default Judgment and avers as follows:

1. On November 17, 2009, International Brotherhood of Electrical Workers, Local 340, AFL-CIO (the Union), filed a charge in Case 20-CA-34742 alleging that Adriana Moreno, a sole proprietorship, d/b/a New Age Communications (Respondent), was engaging in certain unfair labor practices affecting commerce, as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C., Sect. 151, et seq., herein called the Act. (A copy of said charge has been marked as Exhibit 1, and attached hereto and made a part hereof, as are all other documents marked as Exhibits and referred to hereafter.) The charge was served by first-class mail on Respondent on November 18, 2009 (Exhibit 2). The Union filed a first-amended charge in this matter on December 7, 2009 (Exhibit 3), and a copy thereof was served by first-class mail on Respondent on

December 18, 2009 (Exhibit 4). The Union filed a second-amended charge in this matter on December 18, 2009 (Exhibit 5), and a copy thereof was served by first-class mail on Respondent on December 21, 2009 (Exhibit 6).

2. On January 12, 2011, the Acting General Counsel of the Board, on behalf of the Board, by the Acting Regional Director of Region 20 of the Board, pursuant to Section 10(b) of the Act and Section 102.15 of the Board's Rules and Regulations, Series 8, as amended, issued an Order Consolidating Complaint and Compliance Specification, and Notice of Hearing in Case 20-CA-34742 (referred to collectively as the Consolidated Complaint and Compliance Specification) (Exhibit 7). The Consolidated Complaint and Compliance Specification specifically informed Respondent that, pursuant to Section 102.20, 102.21, and 102.56 of the Board's Rules and Regulations, an Answer to the Consolidated Complaint and Compliance Specification must be filed on or before February 2, 2011, and that if no Answer was filed, the Board may find, pursuant to a Motion for Default Judgment, that the allegations of the Consolidated Complaint and Compliance Specification are true. The hearing is scheduled for March 22, 2011.

3. A copy of the Consolidated Complaint and Compliance Specification was served on Respondent on January 27, 2011, by certified mail (Exhibit 8). Also served at the same time was a letter from the Regional Director for Region 20 of the Board notifying Respondent that the date for filing the Answer herein was extended to February 17, 2011 (Exhibit 9).

4. No Answer to the Consolidated Complaint and Compliance Specification was filed as of February 17, 2011. On February 25, 2011, the Regional Attorney for Region 20 of the Board notified Respondent that the Region had not received an Answer

in this matter and that a Motion for Default Judgment would be filed if Respondent did not file an Answer by close of business on March 4, 2011 (Exhibit 10).

5. No Answer to the Consolidated Complaint and Compliance Specification has been filed as of March 7, 2011. In these circumstances, Default Judgment is appropriate. *Smith Industrial Maintenance*, 355 NLRB No. 8 (January 29, 2009); *Holcomb & Hoke Mfg., Inc.*, 355 NLRB No. 40 (January 25, 2010); *LBE, Inc.*, 354 NLRB No. 125 (January 5, 2010); *CGS & Lawn Janitorial Service, LLC*, 354 NLRB No. 126 (January 4, 2010).

NOW THEREFORE, in view of all the matters set forth above, and in view of Sections 102.20 and 102.56 of the Board's Rules and Regulations providing that all allegations of a Complaint and Compliance Specification not denied are deemed to be admitted to be true, Counsel for the Acting General Counsel prays that the Board issue a judgment on the pleadings; make appropriate findings of fact and conclusions of law; find that Respondent has violated Sections 8(a)(1) of the Act by coercively interrogating its employees about union activities, threatening employees in order to discourage union activities, suggesting that union representation would be futile, engaging in surveillance of its employees' union activities, and has violated Section 8(a)(1) and (3) of the Act by terminating its employee Larry Biegler because of his union support and activities. Counsel for the Acting General Counsel prays that the Board issue an order providing for an appropriate remedy; including, but not limited to, an order directing that Respondent make whole Larry Biegler for any losses of wages and benefits he incurred as a result of his unlawful termination by paying him \$4,590.95 plus interest on all unpaid balances of net backpay principal until paid in full, less withholding required by federal and stated

laws from backpay principal only, with interest compounded daily as prescribed in

Kentucky River Medical Center, 356 NLRB No. 8 (2010).

Dated at San Francisco, California, this 8th day of March, 2011.

A handwritten signature in black ink, appearing to read "David B. Reeves", written over a horizontal line.

David B. Reeves
Counsel for the Acting General Counsel
National Labor Relations Board
901 Market Street, Suite 400
San Francisco, California 94103
(415) 356-5146

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case
20-CA-34742Date Filed
11/17/2009

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer
New Age Communicationsb. Tel. No.
(916) 317-1074c. Cell No.
() -f. Fax No.
() -

g. e-Mail

h. Number of workers employed
20+d. Address (Street, city, state, and ZIP code)
125 Main Ave

Sacramento CA 95838-

e. Employer Representative
Chris
Staufferi. Type of Establishment (factory, mine, wholesaler, etc.)
Satellite Television Services Contractorj. Identify principal product or service
Satellite Television Installation and Maintenance

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) _____ of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices).

Within the past six months, the above-named employer terminated Larry Biegler because of his union organizing activities, interrogated employees about their union and protected concerted activities, and threatened employees with termination and loss of benefits if they discovered that they participated in union organizing or other protected concerted activities.

The Charged Party wishes to proceed with the RC petition involving the above-named employer

RECEIVED
NOV 17 A 9:023. Full name of party filing charge (if labor organization, give full name, including local name and number)
International Brotherhood of Electrical Workers, Local 3404c. Address (Street and number, city, state, and ZIP code)
2840 El Centro Road, Suite 115

Sacramento

CA 95833-

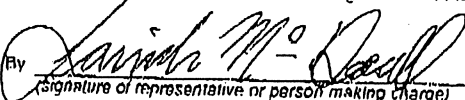
4a. Tel. No.
(916) 927-42394b. Cell No.
() -4d. Fax No.
(916) 927-1074

4e. e-Mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)
International Brotherhood of Electrical Workers

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By 
(Signature of representative or person making charge)

Lead Organizer

(Print type name and title or office, if any)

Larrick

McDowell

PO Box 14

Tel. No.
(707) 829-3631Office, if any, Cell No.
(415) 515-7921Fax No.
(707) 829-3631e-Mail
larrick_mcdowell@ibew.org

Address Sebastapol CA 95473-

/ /
(date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

20-2009-2469

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is

TOTAL P. 04

Ex. 1

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

New Age Communications

and

International Brotherhood of Electrical Workers,
Local 340

CASE 20-CA-34742


DATE OF MAILING: November 18, 2009

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

Served by regular mail:

Mr. Chris Stauffer
New Age Communications
125 Main Avenue
Sacramento, CA 95838

| | |
|--|--|
| <p>Subscribed and sworn to before me</p> <p>this 18th day of November, 2009</p> | <p>DESIGNATED AGENT</p> <p> Wendell L. Choo NATIONAL LABOR RELATIONS BOARD</p> |
|--|--|

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
FIRST AMENDED CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case
20-CA-34742Date Filed
11/12/7/2009

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer
New Age Communications

2009 DEC 10 P 2:31

SAN FRANCISCO, CA

d. Address (Street, city, state, and ZIP code)
4237 South Market Court Suite D

Sacramento CA 95835-e. Employer Representative
Chris
Staufferb. Tel. No.
(916)317-1074c. Cell No.
() -f. Fax No.
() -

g. e-Mail

h. Number of workers employed
20+i. Type of Establishment (factory, mine, wholesaler, etc.)
Satelite Television Services Contractorj. Identify principal product or service
Satelite Television Installation

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) 8(a)(3) _____ of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

Within the past six months, the above-named employer has violated Section 8(a)(1) by making statements to employees that joining a union would be futile; creating the impression of surveillance; conducting surveillance of union activities in the company parking lot; and threatening to terminate employees for joining a union.

Within the past six months, the above-named employer has violated Section 8(a)(3) by terminating Larry Biegler because of his union and protected concerted activities; by imposing more onerous working conditions on Tony Elliott for his union and protected concerted activities and by constructively discharging Tony Elliott for his union and protected concerted activities.

ORIGINAL

3. Full name of party filing charge (if labor organization, give full name, including local name and number)
International Brotherhood of Electrical Workers, Local 340

4c. Address (Street and number, city, state, and ZIP code)
2840 El Centro Road, Suite 115

Sacramento

CA 95833-

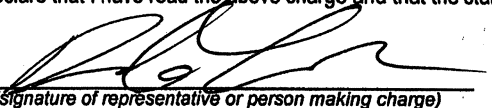
4a. Tel. No.
(916)927-42394b. Cell No.
() -4d. Fax No.
() -

4e. e-Mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) International Brotherhood of Electrical Workers

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By  Danielle Leonard, Esq.
(Signature of representative or person making charge) (Print/type name and title or office, if any)Altshuler Berzon, LLP
177 Post Street
San FranciscoSuite 300
CA 94108-12/10/09
(date)Tel. No.
(415)421-7151

Office, if any, Cell No.

Fax No.
() -

e-Mail

Ex. 3

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

20-2009-2604

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

New Age Communications

and

International Brotherhood of Electrical Workers
Local 340

Case(s) 20-CA-34742

Board Agent: Sarah McBride

Date of Mailing: December 18, 2009

AFFIDAVIT OF SERVICE OF FIRST-AMENDED CHARGE AGAINST EMPLOYER.

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by post-paid first class mail upon the following persons, addressed to them at the following addresses:

New Age Communications
Mr. Chris Stauffer
4237 South Market Court Suite D
Sacramento CA 95835

IBEW Local 340
Andrew J. Meredith, Business Development Rep.
2840 El Centro Road Suite 115
Sacramento CA 95833

Subscribed and sworn to before me

This 18th day of December, 2009.

DESIGNATED AGENT


Caroline Barker

NATIONAL LABOR RELATIONS BOARD

INTERNET
FORM NLRB-501
(2-08)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

SECOND AMENDED

DO NOT WRITE IN THIS SPACE

Case
20-CA-34742Date Filed
12/18/2009

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer

New Age Communications
Direct TV

b. Tel. No. 916-317-1074

c. Cell No.

f. Fax No.

d. Address (Street, city, state, and ZIP code)
New Age: 4237 South Market Suite D
Sacramento, CA 95835
DirecTV: 135 Main St.,
Sacramento, CA 95838e. Employer Representative
Chris Stauffer

g. e-Mail

h. Number of workers employed
20+i. Type of Establishment (factory, mine, wholesaler, etc.)
Satellite Television Servicesj. Identify principal product or service
Installation and Repair of Satellite Television Systems

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) 8(a)(3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

Within the past six months, the above-named employers, New Age Communications and Direct TV, have violated Section 8 (a)(1) by making statements to employees that joining a union would be futile; creating the impression of surveillance; conducting surveillance of union activities in the company parking lot; and threatening to terminate employees for joining a union.

Within the past six months, the above-named employer has violated Section 8(a)(3) by terminating Larry Biegler because of his union and protected concerted activities; by imposing more onerous working conditions on Tony Elliot for his union and protected concerted activities and by constructively discharging Tony Elliot for his union and protected concerted activities.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

International Brotherhood of Electrical Workers, Local 340

4a. Address (Street and number, city, state, and ZIP code)

2840 El Centro Road, Suite 115
Sacramento, CA 95833

4b. Tel. No. 916-927-4239

4c. Cell No.

4d. Fax No.

4e. e-Mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

International Brotherhood of Electrical Workers

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By

Signature of representative or person making charge

Danielle Leonard, Esq.

(Print type name and title or office, if any)

Tel. No. 415-421-7151

Office, if any, Cell No.

Fax No. 415-362-8064

e-Mail
dleonard@altber.com

Altshuler Berzon LLP, 177 Post St. Suite 300, SF, CA 94108

12/18/09
(date)

Address

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is required. Failure to supply the information will cause the NLRB to decline to invoke its processes.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

New Age Communications Direct TV

and

IBEW Local 340

Case(s) 20-CA-34742

Board Agent: Sarah McBride

Date of Mailing: December 21, 2009

AFFIDAVIT OF SERVICE OF SECOND-AMENDED CHARGE AGAINST EMPLOYER, I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by post-paid first class mail upon the following persons, addressed to them at the following addresses:

Mr. Chris Stauffer
New Age Communications
4237 South Market Suite D
Sacramento CA 95835

Direct TV
135 Main Street
Sacramento CA 95838

Subscribed and sworn to before me

This 21st day of December, 2009.

DESIGNATED AGENT

Caroline Barker
Caroline Barker

NATIONAL LABOR RELATIONS BOARD

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 20

ADRIANA MORENO,
A Sole Proprietorship d/b/a
NEW AGE COMMUNICATIONS

and

Case

20-CA-34742

INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS, LOCAL 340
AFL-CIO

ORDER CONSOLIDATING COMPLAINT AND
COMPLIANCE SPECIFICATION, CONSOLIDATED COMPLAINT
AND COMPLIANCE SPECIFICATION, AND NOTICE OF HEARING

International Brotherhood of Electrical Workers, Local 340, AFL-CIO, herein called the Union, has charged that Adriana Moreno, a sole proprietorship d/b/a New Age Communications, herein called Respondent, has been engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C., Sec. 151, et seq., herein called the Act. Based thereon, the Acting General Counsel, by the undersigned, having duly considered the matter and deeming it necessary in order to effectuate the purposes of the Act and to avoid unnecessary costs and delay, HEREBY ORDERS, pursuant to Section 102.54 of the Rules and Regulations, Series 8, as amended, of the National Labor Relations Board, herein called the Board, that this case be, and it hereby is consolidated for hearing on the merits of the charge and the allegations made in the compliance specification herein.

These matters having been consolidated for the purposes described above, the Acting General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Sections 102.15 and 102.54 of the Rules and Regulations of the Board, herein called the Board, issues this Order Consolidating Complaint and Compliance Specification, Consolidated Complaint and Compliance Specification, and Notice of Hearing, and alleges as follows:

COMPLAINT

1. (a) The charge in this proceeding was filed by the Union on November 17, 2009, and a copy was served by first-class mail on Respondent on November 18, 2009.

(b) The first-amended charge in this proceeding was filed by the Union on December 7, 2009, and a copy was served by first-class mail on Respondent on December 18, 2009.

(c) The second-amended charge was filed by the Union on December 18, 2009, and a copy was served by first-class mail on Respondent on December 21, 2009.

2. (a) At all material times until January 20, 2010, when it ceased operations, Respondent was owned by Adriana Moreno, a sole proprietorship doing business as New Age Communications.

(b) At all material times until January 20, 2010, Respondent, with an office and a place of business in Sacramento, California, herein called Respondent's facility, was engaged in the business of providing satellite dish installation and repair.

(c) During the calendar year ending December 31, 2009, Respondent, in the course and conduct of its business operations described above in subparagraphs

2(a) and (b), provided services valued in excess of \$50,000 to DirecTV, an enterprise directly engaged in interstate commerce.

3. At all material times, Respondent was an employer engaged in commerce within the meaning of Sections 2(2), (6), and (7) of the Act.

4. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

5. At all material times, the following individuals held the positions set forth opposite their respective names and were supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

| | | |
|----------------|---|---------------------------------|
| Adriana Moreno | - | Owner/Sole Proprietor |
| Chris Stauffer | - | Manager |
| Jeff Nelson | - | Communications Manager |
| Carlos Haro | - | Communications Field Supervisor |

6. Respondent, by Jeff Nelson:

(a) About November 11, 2009, in a telephone conversation, interrogated employees about their union activities and the union activities of other employees;

(b) About November 11, 2009, in his office, interrogated employees about their union activities and the union activities of other employees;

(c) About November 14, 2009, in a telephone conversation, interrogated employees about their union activities and the union activities of other employees.

7. Respondent, by Chris Stauffer:

(a) About November 12, 2009, in a telephone conversation, interrogated employees about their union activities and the union activities of other employees;

(b) About November 14, 2009, in a telephone conversation, interrogated employees about their union activities and the union activities of other employees;

(c) About November 14, 2009, in a telephone conversation, threatened employees with termination if they signed a union card;

(d) About November 14, 2009, in a telephone conversation, informed its employees that it would be futile for them to select the Union as their bargaining representative;

(e) About November 16, 2009, in a telephone conversation, interrogated employees about their union activities;

(f) About November 17, 2009, in a telephone conversation, interrogated employees about the union activities of other employees;

(g) About November 17, 2009, in a telephone conversation, informed its employees that it would be futile for them to select the Union as their bargaining representative.

8. About November 12, 2009, Respondent, by Chris Stauffer and Jeff Nelson in Stauffer's office at Respondent's facility, interrogated employees about their union activities and the union activities of other employees.

9. About November 13, 2009, Respondent, by Jeff Nelson and Carlos Haro, engaged in surveillance of employees' union activities.

10. On various dates between about November 13, 2009, and December 8, 2009, Respondent, by Jeff Nelson and Carlos Haro, engaged in surveillance of its employees' union activities.

11. (a) About November 13, 2009, Respondent terminated its employee Larry Biegler.

(b) Respondent engaged in the conduct described above in subparagraph 11(a) because Biegler assisted the Union and engaged in other concerted activities, and to discourage employees from engaging in these activities.

12. By the conduct described above in paragraphs 6 through 10, Respondent has been interfering with, restraining and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

13. By the conduct described above in paragraph 11, Respondent has been discriminating in regard to the hire or tenure or terms and conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

14. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

COMPLIANCE SPECIFICATION

15. The gross backpay due discriminatee Larry Biegler ("Biegler") is the amount of earnings that he would have received but for the discrimination against him. The backpay period for Biegler began on November 14, 2009, and ended when Respondent ceased operations on January 20, 2010.

16. To calculate quarterly gross backpay, as set forth in Appendix A, Biegler's total earnings from Respondent (\$10,3091) were divided by the number of weeks that he

¹ As reflected on the IRS form 1099 issued by to Biegler by Respondent.

worked (16), yielding average weekly pay of \$644.31, which was multiplied by the 7 weeks that Biegler would have worked during the fourth calendar quarter of 2009 subsequent to his unlawful discharge and by the 2 ½ weeks that he would have worked during the first calendar quarter of 2010 before Respondent ceased doing business.

17. During the first calendar quarter of 2010, Biegler had interim earnings.

18. The quarterly net backpay due Biegler is the difference between his respective quarterly gross backpay and his net quarterly interim earnings, if any, as set forth in Appendix A.

19. Respondent will fulfill its obligation to make whole Larry Biegler for the loss of earnings by payment to him of \$4,590.95, as set forth in Appendix A; plus interest accrued and paid in the manner prescribed in New Horizons for the Retarded, 283 NLRB 1173 (1987), on all unpaid balances of net backpay principal until paid in full; less withholding required by federal and state laws from backpay principal only. Interest shall be compounded daily as prescribed in Kentucky River Medical Center, 356 NLRB No. 8 (2010).

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20, 102.21, and 102.56 of the Board's Rules and Regulations, it must file an answer to the Consolidated Complaint and Compliance Specification. The answer must be received by this office on or before February 2, 2011, or postmarked on or before February 1, 2011. Unless filed electronically or in pdf format, Respondent should file an original and four (4) copies of its answer with this office and serve a copy of the answer on each of the other parties.

An answer also may be filed electronically by using the E-Filing system on the Agency's website. In order to file an answer electronically, access the Agency's website at <http://www.nlr.gov>, click on **E-Gov**, then click on the **E-Filing** link on the pull-down

menu. Click on the "File Documents" button under "Regional, Subregional and Resident Offices" and then follow the directions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that such answer be signed and sworn to by the respondent or by a duly authorized agent with appropriate power of attorney affixed. See Section 102.56(a). If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the document need to be transmitted to the Regional Office. However, if the electronic version of an answer to this consolidated complaint and compliance specification is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing.

Service of the answer on each of the other parties must be accomplished in conformance with the requirements of Section 102.114 of the Board's Rules and Regulations. The answer may not be filed by facsimile transmission.

As to all matters set forth in the compliance specification [paragraphs 15 to 19] that are within the knowledge of Respondent, including but not limited to the various factors entering into the computation of gross backpay, a general denial is not sufficient. See Section 102.56(b) of the Board's Rules and Regulations, a copy of which is attached. Rather, the answer must state that the basis for any disagreement with any allegations that


are within the Respondent's knowledge, and set forth in detail Respondent's position as to the applicable premises and furnish the appropriate supporting figures.

If no answer is filed or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the consolidated complaint and compliance specification are true. If the answer fails to deny allegations of the compliance specification [paragraphs 15 to 19] in the manner required under Section 102.56(b) of the Board's Rules and Regulations, and the failure to do so is not adequately explained, the Board may find those allegations in the Compliance Specification are true and preclude Respondent from introducing any evidence controverting those allegations.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT commencing at 9:00 a.m. on the 22nd day of March, 2011, and on consecutive days thereafter until concluded, a hearing will be conducted in the a place to be designated later in Sacramento, California, before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this Consolidated Complaint and Compliance Specification. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

DATED AT San Francisco, California, this 12th day of January 2011.



Tim Peck, Acting Regional Director
National Labor Relations Board Region 20
901 Market Street, Suite 400
San Francisco, California 94103-1735

APPENDIX A

| | Gross Backpay | Interim Earnings | Net Backpay |
|---------|---------------|------------------|-------------|
| Q4/2009 | \$4,510.17 | \$ - | \$4,510.17 |
| Q1/2010 | \$1,610.78 | \$ 1,530.00 | \$80.77 |
| | | | |
| | | | \$4,590.95 |

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

ADRIANA MORENO, A Sole Proprietorship, d/b/a
NEW AGE COMMUNICATIONS

and

INTERNATIONAL BROTHERHOOD OF ELECTRICAL
WORKERS, LOCAL 340 AFL-CIO

Case 20-CA-34742

DATE OF MAILING January 27, 2011

AFFIDAVIT OF SERVICE OF

ORDER CONSOLIDATING COMPLAINT AND
COMPLIANCE SPECIFICATION, CONSOLIDATED COMPLAINT
AND COMPLIANCE SPECIFICATION, AND NOTICE OF HEARING

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by postage paid certified mail upon the following person, addressed to her at the following address:

VIA CERTIFIED MAIL

Adriana Moreno
7656 Coolfields Way
Sacramento, CA 95828
(Cert. No. 7007 2560 0001 5876 1405)

Subscribed and sworn to before me on

January 27, 2011

DESIGNATED AGENT

Susie Louie

NATIONAL LABOR RELATIONS BOARD



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
Region 20

901 Market Street, Suite 400
San Francisco, California 94103-1735

Telephone: 415/356-5130
FAX: 415/356-5156
Website: www.nlrb.gov

January 27, 2011

Adriana Moreno
7656 Coolfields Way
Sacramento, CA 95828

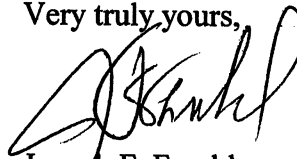
Re: New Age Communications
Case 20-CA-34742

Dear Ms. Moreno:

Enclosed is the Order Consolidating Complaint and Compliance Specification, Consolidated Complaint and Compliance Specification, and Notice of Hearing in the above-referenced case which you have now been served. Pursuant to Sections 102.20, 102.21 and 102.56 of the Board's Rules and Regulations, you are required to file an Answer to this Consolidated Complaint and Compliance Specification. Notwithstanding the due date noted in the Answer Requirement section of the Consolidated Complaint and Compliance Specification, you are hereby notified that the Answer must be received by this office on or before February 17, 2011 or postmarked on or before February 16, 2011.

If you have any questions, please contact David Reeves, Field Attorney at (415) 356-5146.

Very truly yours,



Joseph F. Frankl
Regional Director

Enclosure

Ex. 9



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
Region 20

901 Market Street, Suite 400
San Francisco, California 94103-1735

Telephone: 415/356-5130
FAX: 415/356-5156
Website: www.nlrb.gov

February 25, 2011

Adriana Moreno
7656 Coolfields Way
Sacramento, CA 95828

Re: New Age Communications
Case 20-CA-34742

Dear Ms. Moreno:

An Order Consolidating Complaint and Compliance Specification, Consolidated Complaint and Compliance Specification, and Notice of Hearing in the above matter issued on January 12, 2011, and was received by you on January 28, 2011. An Answer to the Consolidating Complaint and Compliance Specification was due on February 17, 2011. Our records do not indicate that an Answer has been filed. This is to advise you that if an Answer is not received by close of business, March 4, 2011, a Motion for Default Judgment will be filed with the Board.

Very truly yours,

Olivia Garcia
Regional Attorney

OG:sl

Ex. 10

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

ADRIANA MORENO, A Sole Proprietorship, d/b/a
NEW AGE COMMUNICATIONS and
DirecTV, INC., JOINT EMPLOYERS,

and

INTERNATIONAL BROTHERHOOD OF ELECTRICAL
WORKERS, LOCAL 340 AFL-CIO

Case 20-CA-34742

DATE OF MAILING March 8, 2011

AFFIDAVIT OF SERVICE OF MOTION FOR DEFAULT JUDGMENT

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by e-mail and regular mail upon the following persons, addressed to them at the following addresses:

VIA E-MAIL

Danielle Leonard, Esq.
Altshuler Berzon LLP
177 Post Street, Suite 300
San Francisco, CA 94108
Phone: 415-421-7151
Fax: 415-362-8064
dleonard@altber.com

VIA REGULAR MAIL

Adriana Moreno
7656 Coolfields Way
Sacramento, CA 95828

Larrick McDowell, Lead Organizer
International Brotherhood of Electrical Workers,
Local 340
P.O. Box 14
Sebastopol, CA 95473
Phone: 707-829-3631
Fax: 707-829-3631
Larrick_mcdowell@ibew.org

Subscribed and sworn to before me on

March 8, 2011

DESIGNATED AGENT

Susie Louie

NATIONAL LABOR RELATIONS BOARD